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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/112,750 07/10/98 SILVERBROOK

K ART08-US

EXAMINER

WM01/0705

NGUYEN, L

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| ART UNIT | PAPER NUMBER |
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KIA SILVERBROOK  
SILVERBROOK RESEARCH PTY LTD  
393 DARLING STREET  
2041 BALMAIN NSW  
AUSTRALIA

AIR MAIL

2612

DATE MAILED:

07/05/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.  
09/112,750

Applicant(s)

Silverbrook

Examiner

Luong Nguyen

Art Unit

2612



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on \_\_\_\_\_.

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-4 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-4 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      20)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Priority***

1. Acknowledged is made of paper, PO 8025 filed in Australia on 7/15/1997, submitted under 35 U.S.C. 119(a)-(d), which paper have been placed of record in the file.
2. Acknowledgment is made of applicant's claim for foreign priority based on the application PO 7991 filed in Australia on 07/15/1997. It is noted, however, that applicant has not filed a certified copy of the Australian application PO 7991 as required by 35 U.S.C. 119(b).

### ***Specification***

3. The disclosure is objected to because of the following informalities:

In specification, page 3, line 19 and 25, the same number 9 are used for output 9 and range value 9.

In page 3, line 23, "the ACP 31" is not disclosed in figure 1.

Appropriate correction is required.

### ***Claim Objections***

4. Claims 1-4 are objected to because of the following informalities:  
Claim 1 (line 6), "the said focusing settings" should be changed to "said focus settings".

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Claim 4 (line 2), "from a CCD captured digital image a CCD captured digital image"  
should be changed to --from a CCD captured digital image--.

Claims 1-4 are objected as being dependent on claim 1.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1 (line 4) recites the limitation "the" in "the focusing settings";

Claim 3 (line 2) recites the limitation "said" in "said auto focus information".

There is insufficient antecedent basis for this limitation in the claim.

Claims 2-4 are rejected as being dependent on claim 1.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claims 1, 3-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Torii (US 5,512,951).

Regarding claim 1, Torri discloses an auto-focusing apparatus comprising capturing the image utilising an adjustable focusing technique disclosed as image captured by CCD 3 (figure 3, column 2, lines 37-60); utilising the focusing settings as an indicator (frame W2, figure 4) of the position of structures within the image (figures 3,4, column 2, line 37 through column 3, line 15); processing the image, utilising said focus settings to produce effects (frame W3, figure 5B) specific to said focus settings (figures 5A-5B, column 3, lines 18-65).

Regarding claim 3, Torri discloses said processing step comprises utilising said auto focus information to assist in the location of object within the image (figures 2A-2C, column 1, lines 9-36).

Regarding claim 4, Torri discloses said focus setting is derived from a CCD captured digital image (figure 3).

#### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,512,951).

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Regarding claim 2, Torri discloses capturing said image utilising a zooming technique (zoom lens 1b, figure 3, column 2, lines 30-37). Torri fails to specifically disclose utilising zooming settings in a heuristic manner so as to process portions of said image. However, the using zooming settings in a heuristic manner is well known in the art as a way to process image in order to obtain a quality image with desired size of image.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suda et al. (US 4,762,986) disclose automatic focusing system including in-focus position predicting means.

Toyama et al. (US 5,031,049) disclose automatic object image follow-up device.

Hirota et al. (US 5,235,428) disclose auto-focus for video camera.

Yu (US 5,434,621) discloses object tracking method for automatic zooming and the apparatus therefor.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Luong Nguyen** whose telephone number is (703) 308-9297. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wendy Garber**, can be reached on (703) 305-4929.

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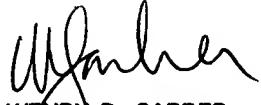
**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231  
**or faxed to:**

(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal drive,  
Arlington, VA., Sixth Floor (Receptionist).

LN LN  
6/18/2001



WENDY R. GARBER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600